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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,201	10/31/2003	Flemming Vang Sparso	674509A-2001	3524
20999	7590	11/03/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			CARR, DEBORAH D	
			ART UNIT	PAPER NUMBER
			1621	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,201	<b>Applicant(s)</b> SPARSO ET AL.	
	<b>Examiner</b> Deborah D. Carr	<b>Art Unit</b> 1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9,10,16,23 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 2,7,8,11-15,17-22 and 24-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/20/05</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 16 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Erciyes et al.

Erciyes et al. teaches the separation of glycerides contained in a mixture of triglycerides via fractionation of said mixture. The glycerides are separated according to temperature wherein triglycerides are specifically separated out at temperatures above 200°C. Upon separation of the glycerides, monoglycerides are the first glyceride distilled off in a first fractionation step. See table II, page 195.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 3, 16, 30-32 rejected under 35 U.S.C. 103(a) as being unpatentable over Erciyes et al.

Erciyes et al. discloses a method for the separation of glycerides contained in a mixture of triglycerides via fractionation of said mixture. The glycerides are separated according to temperature wherein triglycerides are specifically separated out at temperatures above 200°C. Upon separation of the glycerides, monoglycerides are the first glyceride distilled off in a first fractionation step. See table II, page 195. The residue of the distillation step is recirculated through the separator at increasing temperatures, which results in obtaining purified mono-, di-, and tri- glycerides.

The claims differ from the reference by stating that the mono-, di-, and tri- glycerides are long chained. However, it would have been obvious to one of ordinary art at the time that the invention was made to extrapolate that the process as taught by Erciyes et al. could be modified to use the instant reactants.

As shown by Erciyes et al. the determining factor in separation via fractionation is based on the temperature and number of acyl moieties attached to the triglycerol backbone. The mere use of different starting materials, whether novel or known, in a conventional process to produce the product one would expect therefrom does not render the process unobvious. Use of a known member of a class of materials in a process is not patentable if other members of the class were known to be useful for that purpose.

Once the general reaction has been shown to be old, burden is on the applicant to present reason or authority for believing that a group on the starting compound would take part in or affect the basic reaction and thus alter the nature of the product or operability of the process.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3-6, 9-10, 23, 33 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 are rendered indefinite for containing improper Markush language in regarding the fractionation means.

Claim 9 is rendered indefinite by not ending in a period.

7. Claim 23 recites the limitation "feed stream toe the distillation column" in line 1.

There is insufficient antecedent basis for this limitation in the claim since the parent claim (claim 1) does not contain a distillation column.

8. Claim 33 is rendered indefinite by the phrase "is done in response to the customer requirements."

Claims, which depend from an indefinite claim, are also indefinite.

***Allowable Subject Matter***

9. Claims 2, 7-8, 11-15, 17-22, 24-29 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah D. Carr whose telephone number is 571-272-0637.

The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DEBORAH D. CARR  
PRIMARY EXAMINER